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In re Application of :
PYKETT, Melanie Ann *et al* :
Application No.: 10/069,975 :
PCT No.: PCT/EP00/08729 :
Int. Filing Date: 07 September 2000 :
Priority Date: 09 September 1999 :
Attorney Docket No.: 025069-00001 :
For: SKINCARE COMPOSITION AGAINST :
FREE RADICALS :

**DECISION ON
REQUEST UNDER
37 CFR 1.497(d)**

This is a decision on applicants' "Communication in Response to Notification of Defective Response" filed 10 January 2003. This is treated as a request under 37 C.F.R. 1.497(d).

BACKGROUND

On 10 May 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 indicating that the declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee was required. Applicants were given two months to respond with extensions of time available pursuant to 37 CFR 1.136(a).

On 10 October 2002, applicants submitted various documents including a three-month extension request and fee, the surcharge fee and an executed declaration.

On 10 December 2002, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916) indicating that the declaration submitted was not in compliance with 37 CFR 1.497(a) and (b) because Stewart Paul Long was not listed as an inventor on the international publication but signed as an inventor on the declaration. Applicants were given a time limit of one month of the date of this Notification or within the time remaining in the Notification of Missing Requirements, whichever is longer. No extension of this time limit pursuant to 37 CFR 1.136(a) was allowed.

On 10 January 2003, applicants filed the instant request which was accompanied by, *inter alia*, a document titled "Assent of Boots Company PLC" signed by Michael John Oliver as Company Secretary and a "Statement of Stewart Paul Long" ("Statement") signed by Mr. Long.

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DISCUSSION

In the instant petition, applicants acknowledge that the national stage application was filed with a different inventive entity than that named in the international application, *i.e.*, PCT/EP00/08729. 37 CFR 1.497(d) applies when the inventorship in a national stage application filed under 35 U.S.C. 371 differs from that set forth in the international application (see 37 CFR 1.48(f)(1)). 37 CFR 1.497(d) states, in part:

(d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by:

- (1) A statement from each person being added as an inventor . . . that any error in inventorship in the international application occurred without deceptive intention on his or her part;
- (2) The processing fee set forth in § 1.17(l); and
- (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignees.

In the instant request, applicants filed a Statement signed by Stewart Paul Long who request to be added as an inventor in the above-captioned application. The Statement declares that the "he was omitted from the inventorship in the international application without deceptive intention on his part." This satisfies item (1) above.

The processing fee of \$130.00 has been charged to Deposit Account No. 02-2135 as authorized. This satisfies item (2) above.

Applicants also submitted an "Assent of Boots Company PLC" signed by Michael John Oliver as Company Secretary. The position of Secretary is a position recognized as having the authority to sign for a corporation. See § 324 Manual of Patent Examining Procedure.

Therefore, all the requirements of 37 CFR 1.497(d) are complete.

CONCLUSION

Applicants' request under 37 CFR 1.497(d) to add Stewart Paul Long as an inventor in the above-captioned application is **GRANTED**.

The declaration filed 10 October 2002 is now in compliance with 37 CFR 1.497(d).

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 07 September 2000, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 10 October 2002.

This application is being forwarded to the United States Designated/Elected Office for further processing in accordance with this decision.


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